

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 3: ENVIRONMENTAL HEALTH

Chapter 5: Dairies and Dairy Products

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33.051 Authority.

Pursuant to the authority cited in Chapter 1 this Environmental Code (E.H. Code), the State Food and Agricultural Code Section 32.501 et seq., Section 33.14t et seq. Section 33.171 et seq., Administrative Code Title 3, and other applicable State law, the Department of Food and Agriculture of the State of California has designated, and this jurisdiction hereby authorizes, that the Department of Environmental Health Services (DEHS) of the County of San Bernardino is the State Approved Milk Inspection Service (AMIS) to enforce all applicable State law and provisions of this E.H. Code pertaining to dairy farm sanitation, milk products plant sanitation, retail outlet sanitation, and dairy product standards within this jurisdiction. Enforcement officers shall be designated as set forth at Food and Agriculture Code Section 33.111 et seq. Except as provided herein, the provisions of Chapters 1, 2, and 3 of this E.H. Code shall apply to this Chapter.

Renumbered and restated Ordinance #3105 (1986);

33.052 Standards and Requirements for Milk, Cream, and Milk Products.

It shall be unlawful for any person or entity to sell, offer for sale, distribute, or possess for sale or distribution, any milk, cream, or milk product for human consumption unless it conforms to the standards and requirements provided by Division 15, of Food and Agriculture Code and Administrative Code, Title 3.

Renumbered and restated Ordinance #3105 (1986);

33.053 Definitions.

In addition to those definitions provided in Chapters 1 and 3 of this E.H. Code, the following shall apply to this Chapter:

(a) "Approved Milk Inspection Service (AMIS)" is the inspection unit and laboratory under the direction of the Health Officer or the Director of DEHS established for the purpose of inspecting dairy farms, milk products plants, and retail outlets which are producing, processing, handling and/or distributing market milk and related products within this jurisdiction and so designated and assigned by the Director of the California Department of Food and Agriculture and in accordance with the Food and Agriculture Code and Administrative Code, Title 3.

(b) "Dairy Farm" is any place or premises upon which milk or milk products are produced for sale or distribution and where more than two (2) cows or six (6) goats are in lactation.

(c) "Distributor of Market Milk" is any person, broker, agent, association, or entity that purchases or handles fluid milk or fluid cream for processing, manufacture, or sale. Distributor of market milk does not include:

(1) Any producer that delivers fluid milk or fluid cream only to a distributor or distributor plant.

(2) Any retail store that is not actively and directly engaged in processing and packaging fluid milk or fluid cream.

(3) Any establishment where fluid milk or fluid cream is sold only for consumption on the premises, that is not actively and directly engaged in processing and packaging fluid milk or fluid cream.

(d) "Milk Distributor" is any person, or entity that transports, within this jurisdiction, packaged milk, cream or milk products for resale either to retail outlets or milk peddlers. This applies to distributors regardless of location of milk storage facilities.

(e) "Milk Peddler" is any person, or entity, transporting milk, cream or milk products for sale along a route making periodic stops of short duration for the purpose of dispensing milk, or milk products to buyers.

(f) "Milk Store or Retail Dairy" is any establishment where the sales of milk, cream and milk products exceed fifty percent (50%) of the total sales.

(g) "Milk Products Plants" is any place, premises, or establishment where milk, cream or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

Renumbered and restated Ordinance #3105 (1986);

33.054 Application for Permits.

(a) Required. It shall be unlawful for any person or entity to engage in the business of producing, processing, selling or distributing market milk or cream or any milk product subject to AMIS jurisdiction within this jurisdiction without possessing an unexpired, unsuspended, unrevoked permit to do so, issued by the AMIS of San Bernardino County as provided for in Division 15 of the Food and Agriculture Code.

(b) Procedure. Applicants for a permit or a renewal of a permit under this Chapter shall file with the AMIS an application in writing on the form furnished by AMIS. Such facts or information as may be required by AMIS shall be provided.

(c) Nontransferable. Permits are not transferable, including as to ownership or location.

Renumbered and restated Ordinance #3105 (1986);

33.055 Fees.

(a) Permit Fees. Every person or entity engaged in the business of producing, processing, selling, or distributing market milk, market cream, or any milk product subject to AMIS jurisdiction, shall pay DEHS/AMIS annual permit fees as specified in the San Bernardino County Code Schedule of Fees.

(b) Inspection Fees. Dairy farm inspection fees, as set forth in the Schedule of Fees, shall be paid by each producer of market milk or market cream produced on dairy farms located within this jurisdiction or by any distributor of market milk or market cream, as defined herein, when designated by the producer or their agent; and the fee set forth for a milk products plant shall be paid by the distributor or operator that maintains a milk products plant. Said fees shall be paid, on a quarterly basis, to DEHS/AMIS.

(c) Special Laboratory Examination Fees. Fees for special laboratory examinations requested by the milk and dairy industry in excess of those required by the Food and Agriculture Code and the Administrative Code shall be charged directly to the milk producer and/or milk products plant operator as set forth in the Schedule of Fees.

(d) Proration of Fees. Any of the fees pertaining to this Chapter may be prorated on a quarterly basis for the remainder of the billing year, when applied to a newly established business or a change of ownership.

(e) Late Renewal Special Processing Fee. All renewal fees are due and shall be paid to DEHS/AMIS within thirty (30) days, after the expiration date of the current permit, or a twenty-five percent (25%) late renewal special processing fee shall be charged.

(f) New Operation or Change of Ownership Special Processing Fee. An application shall be properly filed with and approved by DEHS/AMIS and all fees paid for any activity subject to this Chapter prior to a new or converted facility being operated, or operation by a new owner; or a twenty-five percent (25%), special processing fee shall be charged.

(g) Fee Adjustments. This jurisdiction may, when revising fee schedules, adjust those fees pertaining to this Chapter to provide reimbursement for services not to exceed the actual cost of providing the AMIS.

Renumbered and restated Ordinance #3105 (1986);

33.056 Expiration and Renewal of Permits.

Permits shall be renewed annually provided that the permit holder has, during the period of the expiring permit, operated in conformity with this Chapter and other applicable rules and regulations of the AMIS.

33.057 Revocation of Permit and Appeal Procedures.

The Director of DEHS, or authorized deputy, upon notice and hearing, and upon the finding(s) that State law or a requirement of this Chapter has been violated, may revoke such permit. If it is determined by the Director or authorized deputy following an inspection or investigation that a violation of this Chapter exists, a written notice to correct such violation or violations within a specified time limit shall be issued to the owner or operator of the dairy operation or milk products plant. If upon reinspection after the time specified, the violation still exists, a second written notice shall be issued to the owner or operator.

If subsequent investigation again reveals the lack of compliance, the owner or operator shall be given a written notice to appear before a hearing officer of this jurisdiction to show cause why the DEHS permit to operate should not be revoked. After the AMIS representatives and the owner or operator have presented evidence of compliance, or noncompliance, the hearing officer after considering all facts, may, for sufficient cause, order the permit revoked.

Renumbered and restated Ordinance #3105 (1986);

33.058 Reinstatement of Revoked Permit.

Revoked permits may be reinstated only upon the order of the Director of DEHS or authorized deputy.

Renumbered and restated Ordinance #3105 (1986);

33.059 Standards for Establishing Cattle or Goat Dairies.

Cattle or goat dairies established after November 1969 shall conform to the following requirements:

- (a) Submission of Plans. Before the commencement of any construction, four (4) sets of detailed plans for the proposed dairy shall be submitted for review and prior written approval shall be obtained from AMIS.
- (b) Required Corral Space per Animal. Corrals shall have a minimum area of five hundred (500) square feet per cow and one hundred sixty-six (166) square feet per goat.
- (c) Maximum Number of Animals per Acre. The number of animals on each parcel of land shall not exceed twenty (20) cows or sixty (60) goats per gross acre. Soil, drainage, or other conditions peculiar to the site may cause a reduction in allowable density as determined by the AMIS.
- (d) Minimum Acreage Required for Waste Disposal at Cattle Dairies. A minimum of five (5) gross acres shall be provided for waste disposal and open uses, such as field crops and pasture, for each two hundred (200) cows or a fractional number thereof. For each additional forty (40) cows, one (1) gross acre shall be provided for waste disposal.

Renumbered and restated Ordinance #3105 (1986);

33.0510 Pasteurization Requirements.

It shall be unlawful for any person, or entity to sell, offer for sale, distribute, or process for sale or distribution, any milk or cream unless such milk or cream has been pasteurized in accordance with the provisions set forth in Division 15 of the State Food and Agricultural Code, and those of the Administrative Code.

Nothing contained herein shall prevent the sale or delivery of raw milk or raw cream to pasteurization plants for pasteurization or the sale or delivery of milk meeting the standards of certified raw milk of the American Association of Medical Milk Commissioners.

Renumbered and restated Ordinance #3105 (1986);

33.0511 Violations, Remedies, and Penalties.

It shall be unlawful for any person or entity to violate any provision of this Chapter. Except as provided herein, all enforcement procedures, remedies, or penalties provided in Chapters 1, 2 and 3 of this E.H. Code shall apply to this Chapter, and are in addition to all others provided by law.

Renumbered and restated Ordinance #3105 (1986);